REMARKS

Claims 1-11 and 13-26 are pending in this application. All were rejected under 35 USC 103(a) in view of Takashahi, Choy and Ogilvie. Applicant has amended the independent claims to ensure consistent use of the term "business-related data." Applicant has also amended claim 18 and its dependents to recite "applying a negotiated agreement" instead of "negotiating an agreement." None of these changes are necessitated by the claim rejections or by the prior art applied in those rejections. Applicant asks that all claims be allowed.

The Office has conceded in its most recent action that both Takashahi and Choy fail to show or suggest a data-pooling arrangement between two business entitities in which information delivered to one of the business entities "includes data describing some aspect of a business relationship between at least one of the business entities and another entity that is not party to [an] agreement" between the business entities. In this regard, the Office is correct. However, in combining the teachings of the Ogilvie patent with those of Takashahi and Choy, the Office appears to have forgotten the fundamental tenets of the law of obviousness.

In particular, to establish a *prima facie* case of obviousness, the Office must show that three basic criteria are met: (1) There must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to combine reference teachings; (2) there must be a reasonable expectation of success in doing so; and (3) the combination of references must teach or suggest all of the claim limitations. (MPEP 2143.) In this case, at a very minimum, the rejection of Applicant's claims fails on the first and third criteria.

Applicant has claimed a method, a network, and a computer program through which unrelated business entities are able to pool data "describing one or more aspects of the operations of each of the business entities" and then extract from this pooled data information "describing some aspect of a business relationship between at least one of the business entities and another entity that is not a party to [an] agreement" between the business entities. Under this arrangement, it is two business entities that (1) pool data

about their business operations and (2) enter an agreement allowing at least one of the business entities to mine the pooled data for information about the business relationship between one of those entities and a third party.

Ogilvie describes a system that differs from Applicant's in several important ways. First off, the agreement appearing in Ogilvie's claim 1 exists between a business entity and one of its customers (the "consumer"), and not between two business entities. Second, there is no pooling of data about the operations of business entities in Ogilvie. Third, the agreement in Ogilvie does not allow a business entity to gather information from a "shared" or "common" database or from "pooled data" arrangment of any sort, particularly one in which the information being gathered describes the business relationship between one of the business entities and some third party not privy to the agreement.

The result is that the system described by Ogilvie differs so greatly from Applicant's and from those described by Takashahi and Choy that no person of ordinary skill in the art would even have attempted to combine the teachings of these references. Applicant is confident, in fact, that the Office's only motiviation for combining Ogilvie is the fact that it turned up in a seach on the phrase "party to the agreement." Apart from this fortuitous choice of words, there is nothing in the teaching of Ogilvie that would suggest its combination with either Takashahi or Choy.

What's more, even if it were reasonable to combine Ogilvie with Takashahi and Choy, doing so does not produce Applicant's invention. Again, the agreement in Ogilvie exists between a business entity and its customer, not between two business entities, and it exists for reasons unrelated to the pooling of business-operations data. Therefore, even if a person of ordinary skill in the art had been motivated to combine this set of references, that person still would not have arrived at Applicant's invention.

CONCLUSIONS

The Takashahi, Choy and Ogilvie references, even if and when combined, do not show or suggest the invention claimed by Applicant. Therefore, all of the claims are allowable over these references. Applicant asks the Office to reconsider this application and allow all of the claims.

The Office is authorized to charge any fees that may be due, except for the issue fee, to deposit account 14-0225.

Respectfully,

John D. Cowart
Reg. No. 38, 415

NCR Corporation
Teradata Law Department
1700 South Patterson Blvd.
Dayton, Ohio 45479

Tel. No. (858) 485-4903
Fax No. (858) 485-2581